THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on:11.07.2007

\+ WP(C) No.3273/2007

MS SUDEEPTI CHANDRA ...Petitioner

- versus -

DIRECTOR, SCHOOL OF PLANNING & ARCHITECTURE AND ANOTHER ...Respondents

Advocates who appeared in this case:
For the Petitioners : Mr Madhu Kapur
For the Respondents : Mr M. P. Singh

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

1. Whether Reporters of local papers may be allowed to see the judgment ?

2. To be referred to the Reporter or not ?

3. Whether the judgment should be reported in Digest ?

BADAR DURREZ AHMED, J (ORAL)

1. The petitioner was pursuing the Bachelor of Planning, four year degree course from the School of Planning and Architecture, Delhi. She had taken admission in the year 2001. The four year degree course is conducted on the basis of a semester system. Under this system, in each year, there are two semesters.

2. The petitioner had cleared the 4th Semester. The petitioner sat for the 4th Semester examination in May 2005 and she was promoted to the next Semester after she re-appeared in Techniques of Planning –II in the Supplementary Examinations held in July—August 2005. Normally, she should have cleared the Fourth Semester by the year 2003. She took an extra two years to clear the Fourth Semester and that, too, after grace marks were awarded to her in some of the papers.

3. In the third year – 5th Semester examination which was conducted in December, 2005, the petitioner failed in the Utilities and Services Planning paper and was asked to reappear in the Supplementary Examination which was to be held in July 2006. But, she did not appear in that examination. In the third year – 6th Semester examination which was conducted in May 2006, the petitioner failed in the following subjects:-

> "(1) Urban Design and Conservation ;
>
> (2) Planning and Management of Informal Sector and Basic Needs; and
>
> (3) Landscape Planning and Design."

She was also detained in the paper for Elements of Settlement Sociology on account of low attendance. As per Rule 10 of the Examination Rules, the petitioner was required to repeat the said Semester as a regular student in the next academic session of 3rd year – 6th Semester. A notification to this effect was issued in respect of, *inter alia*, the petitioner on 04.07.2007.

4. The petitioner, instead of attending the session in 2006-07 as a regular student, continued to make representations in respect of her being detained in the paper – Elements of Settlement Sociology on account of low attendance. It is an admitted position that she did not attend even a single lecture in the entire year 2006-07.

5. The petitioner has now filed this writ petition praying that she be allowed to appear in the examination held in May 2007; that she be permitted to sit in the 4th year classes (7^{th} Semester) for the Academic Session 2007-08; and that an inquiry be initiated against the respondents for illegally detaining her for low attendance in the examination of Elements of Settlement Sociology.

6. The petitioner's case is entirely based upon a letter issued by Mr Ashish K. Chatterjee on 10.05.2006 to the Director, School of Planning and Architecture, New Delhi. The background of the issuance of this letter was that on 05.05.2006, the School of Planning and Architecture had taken out a list of

candidates who were detained from appearing in various papers on account of low attendance. The petitioner's name figured in that list in respect of the paper —Elements of Settlement Sociology. The examinations were to begin on 11.05.2006. The aforesaid letter was written by Mr Chatterjee on 10.05.2006 in which he stated as under:-

> "I have committed mistakes in reporting attendance in III year Planning (Elementary Settlement Sociology). For this, I understood, students are going to lose one academic year.
>
> Students should not be penalized for my mistake. Inconvenience thus caused is deeply regretted."

7. It was contended on behalf of the petitioner that despite acknowledgment of commission of the mistake in reporting of attendance and the same being brought to the notice of the Director, School Planning and Architecture dated 10.05.2006 itself, the petitioner was not permitted to take the examination beginning on 11.05.2006. It is further stated that because of the trauma caused by this detention, the petitioner was unable to clear three other papers as already indicated and it is because of this that the petitioner was unable to move on to the next semester.

8. It may also be pointed out that on 09.05.2006, a meeting of the Head of the Faculty of Department of Physical Planning alongwith the Dean of Studies was held in the Room of the Director. The minutes indicate that the Head of the Department of Physical Planning informed that after careful scrutiny of

students of all classes of Bachelor's Degree Course in Planning, a notice dated 05.05.2006 for detaining the students for theory examinations was issued. It was further noted that the said Head of Department informed that from time to time the students were issued notices for shortage of attendance and even letters were issued to the parents of the students. It was decided that the note dated 05.05.2006 with regard to the detaining of the students on account of shortage of attendance would stand and no further action was required.

9. The learned counsel appearing for the petitioner drew my attention to another letter from Mr Ashish K. Chatterjee dated 26.06.2006 wherein he indicated as to how he made mistakes in the reporting of attendance. It is also stated that he had not put any 'a' s in the attendance sheet. The learned counsel for the petitioners drew my attention to a copy of the attendance sheet which had been filed by the respondents to indicate that the same contains 'a' s thereby indicating that the attendance sheet is not the same as had been submitted by the said Mr Ashish K. Chatterjee. He also submitted that the attendance sheet contains certain blanks which have not been filled in and, according to him, the attendance sheet having lost its sanctity, could not be relied upon to detain a student from appearing in the examination. He also made certain submissions with regard to students who had less than 75% attendance, but who were not detained. In this connection, he submitted that the total number of lectures in this course were 16, and 75% of the same would translate to 12 lectures. He

indicated that some of the students had attended only 11 lectures and were not detained, whereas the petitioner who had attended seven lectures was detained. This point can be immediately taken up inasmuch as the learned counsel for the respondent submitted that although the requirement was of 75% attendance and, according to that, the students ought to have attended 12 lectures, the policy of the School of Planning and Architecture is that if there is a shortfall of attendance by one lecture, then the student is not penalised, therefore, all those students who had attended 11 lectures were granted the benefit, whereas all other students who were falling short by more than 1 lecture were detained.

10. Assuming for a moment that the petitioner had been wrongfully detained in the paper—Elements of Settlement Sociology on account of purported low attendance and that she is now entitled to appear in the Supplementary Examination, the question that would arise would be that as to whether she is otherwise entitled to the reliefs claimed in the present petition. Rules 10, 11 and 12 of the Examination Rules deal with promotion, supplementary examination and maximum permissible period for completion of academic course requirements. The same read as under:-

> "10. PROMOTION
> (i) PROMOTION TO NEXT SEMESTER IN AN ACADEMIC YEAR
>
> A student shall be permitted to proceed to the next Semester in an academic year provided he fulfills the attendance requirement as detailed in section 5a, and academic performance requirement as

detailed in section 5b. In addition, he should not have failed in any 'Design' subject or more than two subjects in the examination.

(ii) PROMOTION TO NEXT ACADEMIC YEAR

A student who fails in any of the subject in the Semester Examination and fails to clear the subject even in the Supplementary Examination shall not be promoted to the next academic year. He shall have to repeat the subject in which he has failed in the following year as a regular student in the corresponding Semester (s).

11. SUPPLEMENTARY EXAMINATION

There shall be only one Supplementary Examination in the month of July for students of First to Fourth years. At any Supplementary Examination, a student may appear in a maximum of two theory subjects. In all such cases where a student is allowed to take the Supplementary Examination and has passed the Supplementary Examination, the minimum pass marks of 40 per cent will be taken as marks obtained in the subject irrespective of the score in the Supplementary Examination.

12. MAXIMUM PERMISSIBLE PERIOD FOR COMPLETION OF ACADEMIC COURSE REQUIREMENTS

(a) First year students of Bachelor's Degree Programme in Physical Planning must clear all the subjects within maximum of two academic years.

(b) The academic course requirements upto fourth year (VIII Semester) must be completed within a maximum of seven years from the date of joining the course.

(c) Students of the Bachelor's Degree Programme in Physical Planning Course who fail to pass the prescribed examination within the limits of chances allowed, shall not be permitted to rejoin the Course."

11. From the aforesaid rules, it is clear that insofar as promotion to the next academic year is concerned, a student, who fails in any of the subjects in the Semester examination and also fails even in Supplementary Examination shall not be promoted to the next academic year and that he shall have to repeat the

subject in which he has failed in the following year as a regular student in the corresponding Semester. With regard to promotion to the next Semester, it is clear that a student would be permitted to proceed to the next Semester provided he fulfills the attendance requirements as detailed in Section 5a. In addition, he should not have failed in any 'Design' subject or more than two subjects in an examination. Rule 11 relates to Supplementary Examination and it specifically provides that in any Supplementary Examination, a student may appear in a maximum of two theory subjects, whereas the petitioner, even if the paper of Elements of Settlement Sociology is overlooked, has failed in four other papers. One paper from the 5th Semester and three papers from the 6th Semester. Therefore, she cannot be allowed to take the Supplementary Examination and the only course of action available to her was to repeat the third year as a regular student in the academic year 2006-07 which was the option given by the School of Planning and Architecture to her, as mentioned above. That option was not taken by her. Instead, she went on representing against her detention in respect of the Elements of Settlement Sociology paper.

12. The other difficulty that faces the petitioner is that under Rule 12, the academic course requirement upto the 4th year (8th Semester) has to be completed within a maximum of seven years from the date of joining the course. The petitioner joined the course in the academic session 2001-02 and, therefore, she was required to complete the 4 years by the academic session

2007-08. Even if the petitioner is now permitted to continue with her 3rd Semester in the academic session 2007-08, she would not be in a position to complete the 8th Semester by the end of 2007-08. Therefore, in whichever way one looks at this case, the rules do not permit the petitioner to continue with the course.

For all these reasons, the petitioner cannot be given any relief in this writ petition. The same is dismissed. No costs.

BADAR DURREZ AHMED
(JUDGE)

July 11, 2007
δυττ